

# United States District Court

## WESTERN DISTRICT OF MICHIGAN

**UNITED STATES OF AMERICA**

v.

**SYLVESTER HUGULEY**

### **ORDER OF DETENTION PENDING REVOCATION HEARING**

Case Number: 1:04-CR-56

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending revocation hearing in this case.

#### **Part I - Findings of Fact**

(1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is

- a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- an offense for which the maximum sentence is life imprisonment or death.
- an offense for which the maximum term of imprisonment of ten years or more is prescribed in \_\_\_\_\_
- a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.

(2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.

(3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).

(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an)other person(s) and the community. I further find that the defendant has not rebutted this presumption.

#### **Alternate Findings (A)**

(1) There is probable cause to believe that the defendant has committed an offense

- for which a maximum term of imprisonment of ten years or more is prescribed in \_\_\_\_\_
- under 18 U.S.C. §924(c).

(2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

#### **Alternate Findings (B)**

(1) There is a serious risk that the defendant will not appear.

(2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Defendant has a lengthy record of failing to appear. Defendant was placed on probation in 1993 and had probation revoked in 1996 for failing to report as required.

In the present case, defendant was initially placed on probation but probation was revoked in August of 2006 for nine violations of supervised release, a number of which apparently were in the (continued on attachment)

#### **Part II - Written Statement of Reasons for Detention**

Defendant has failed to show by clear and convincing evidence that there is any condition or combination of conditions that will assure his appearance in court in light of his repeated failures to abide by reporting conditions of the probation office now and in the past.

#### **Part III - Directions Regarding Detention**

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: July 1, 2009

/s/ Hugh W. Brenneman, Jr.

*Signature of Judicial Officer*

Hugh W. Brenneman, Jr., United States Magistrate Judge

*Name and Title of Judicial Officer*

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**Alternate Findings (B) - (continued)**

nature of failing to report.

The present violations allege defendant moved at least three times between September 2008 and December 17, 2008 (the date the petition was sought) without prior approval. Defendant was also required to submit job applications each week while he was unemployed, but failed to report to the Kalamazoo probation office for the entire month of June and the first three weeks of July, 2008. He reported sporadically during the month of August, until August 25, 2008, and failed to appear at the probation office after that date. He was apparently apprehended by state authorities on an unrelated matter on December 3, 2008, and has been incarcerated ever since. Defendant has provided no explanation as to why he failed to report to his probation office for the last half of calendar 2008.

**Part II - Written Statement of Reasons for Detention - (continued)**